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The present application is a United States national phase application, filed under 35 U.S.C. §371 from PCT Application No. PCT/US03/026200, filed August 20, 2003, which claims priority to U.S. Provisional Application No. 60/404,806, filed August 20, 2002.

In the February 9, 2007 Office Action, a species election requirement has been imposed under PCT Rule 13.1 against claims 1-30, 40-42, 62, 63 and 79, as amended by preliminary amendment, as between species I and II for lacking unity of invention. The species are as follows:

- Species I, Foreign immunogens; and
- Species II, Endogenous immunogens.

Election

In response, applicants provisionally elect **Species I, foreign immunogens**, with traverse. Such election is made with the understanding that a generic claim may contain a "reasonable number of species" when the generic claim is allowable (37 C.F.R. §1.141; MPEP 806.04), and that if one species is found to be allowable, the additional species will also be searched by the examiner and examined for patentability.

Also, in the February 9, 2007 Office Action, the examiner has imposed a sub-species election requirement under PCT Rule 13.1, as to the sub-species of claim 13, among (a) viral proteins, (b) bacterial proteins, (c) parasite proteins, (d) cytokines, chemokines and immunoregulatory agents, and (e) therapeutic agents. In response, applicants hereby provisionally elect **viral proteins**, with traverse.

The examiner has further imposed a sub-species election requirement under PCT Rule 13.1, as to the sub-species of claim 17, among (a) cellular proteins, (b) immunoregulatory agents, (c) therapeutic agents, (d) tumor immunogens, and (e) autoimmune immunogens. In response, applicants hereby provisionally elect **cellular proteins**, with traverse.

All elections made above have been made with traverse.

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The foregoing species election requirements have been made under PCT Rule 13.1, based on the examiner's position that the various species lack unity of invention, and PCT Rule 13.2 based on the examiner's contention that the corresponding technical features involve "different structure and/or function." (Office Action mailed February 9, 2007, page 3.)

Applicants respectfully disagree with the foregoing species election requirements. All of the species in Groups I and II, including the sub-species of claims 13 and 17 correspond to one another in that they all are immunogenic. As such, the species and sub-species share a function and, accordingly, have a required corresponding special technical feature. Therefore, the species relate to a single general inventive concept and requiring election of a single species and sub-species is improper.

It therefore is respectfully requested that the species set forth in claims 1-30, 40-42, 62, 63 and 79 be aggregately retained for examination.

Claim Identification

In the February 9, 2007 Office Action, identification of the claims encompassing the elected invention was required. It is initially noted that all elections made above are provisional elections, made with traverse. However, should the restriction be made final, then claims 1-30, 40-42, 62, 63 and 79 will remain pending and under examination. Claims encompassing the subject matter are claims 1-17, 19-30, 40-42, 62, 63 and 79. Only claim 18, which recites non-elected species ("tumor immunogens") does not encompass the subject matter of the present species and sub-species elections.

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CONCLUSION

In response to the Requirement for Restriction dated February 9, 2007, applicants have provisionally elected, with traverse, species Group I, drawn to foreign immunogens. Further, applicants have provisionally elected sub-species viral proteins of claim 13 and cellular proteins of claim 17, with traversal of the election of the sub-species election requirement.

No fees are believed to be due for the filing of this paper. However, should any fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 08-3284, as necessary.

It is therefore requested that examination of the application proceed, consistent with the foregoing. If any additional issues remain, the Examiner is requested to contact the undersigned attorney at (919)419-9350 to discuss same, in order that the prosecution of this application is expedited.

Respectfully submitted,

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